

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference MLC/LCW/2871PC	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/GB2006/003421	International filing date ( <i>day/month/year</i> ) 15 September 2006 (15.09.2006)	Priority date ( <i>day/month/year</i> ) 15 September 2005 (15.09.2005)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant SMITH & NEPHEW, PLC			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Date of issuance of this report 18 March 2008 (18.03.2008)
	Authorized officer  Dorothée Mülhausen  e-mail: pt01.pct@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)
Applicant's or agent's file reference see form PCT/ISA/220		<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. PCT/GB2006/003421	International filing date (day/month/year) 15.09.2006	Priority date (day/month/year) 15.09.2005
International Patent Classification (IPC) or both national classification and IPC INV. A61M1/00 A61M3/02 A61M27/00		
Applicant SMITH & NEPHEW, PLC		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Date of completion of this opinion  See form PCT/ISA/210	Authorized Officer  Lakkis, Angeliki Telephone No. +31 70 340-4136
		

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2006/003421

**Box No. I Basis of the opinion**

1. With regard to the **language**, this opinion has been established on the basis of:  
 the international application in the language in which it was filed  
 a translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
 a sequence listing  
 table(s) related to the sequence listing
  - b. format of material:  
 on paper  
 in electronic form
  - c. time of filing/furnishing:  
 contained in the international application as filed.  
 filed together with the international application in electronic form.  
 furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

- the entire international application
- claims Nos. 25

because:

- the said international application, or the said claims Nos. 25 relate to the following subject matter which does not require an international search (*specify*):  
**see separate sheet**
- the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):
- no international search report has been established for the whole application or for said claims Nos. 25
- a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:
  - furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
  - furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.
  - pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b).
- a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.
- the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.
- See Supplemental Box for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2006/003421

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1-24
Inventive step (IS)	Yes: Claims	
	No: Claims	1-24
Industrial applicability (IA)	Yes: Claims	1-24
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.  
PCT/GB2006/003421

**Re Item III.**

Rules 39.1(iv) and 67.1(iv) PCT - Method for treatment of the human or animal body by therapy

**Re Item V.**

Reference is made to the following documents:

D1 : WO 2005/046761 A (SMITH & NEPHEW [GB]; BLOTT PATRICK LEWIS [GB]; GREENER BRYAN [GB]; HAR) 26 May 2005 (2005-05-26)

D2 : WO 2005/070480 A (UNIV RAMOT [IL]; ENZYSURGE LTD [IL]; FREEMAN AMIHAY [IL]; HIRSZOWICZ E) 4 August 2005 (2005-08-04)

D3 : WO 02/092783 A2 (CHILDRENS MEDICAL CENTER [US]) 21 November 2002 (2002-11-21)

**INDEPENDENT CLAIM 1**

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 (see claim 1, figure 1, page 6, 3rd paragraph; page 54, lines 6-36) discloses (the references in parentheses applying to this document):

An apparatus (1) for aspirating, irrigating and/or cleansing wounds, comprising a) a fluid flow path comprising a wound dressing (2) having a backing layer (3) and at least one inlet pipe (6) for connection to a fluid supply tube (7), which passes through and/or under the backing layer and a least one outlet pipe (9) for connection to a fluid offtake tube (10), which passes through and/or under the backing layer, b) at least one device (18) for moving fluid through the wound dressing, further comprising c) means (irrigant, page 6, paragraph 3) for supplying physiologically active agents from cells or tissue to the wound, connected to a fluid supply tube (7), and d) means (18) for providing sequential or simultaneous aspiration and irrigation of the wounds, such that the fluid containing such

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.  
PCT/GB2006/003421

physiologically active agents from the cells or tissue may be supplied to fill the flow path via the fluid supply tube from the means for supplying physiologically active agents from cells or tissue to the wound.

Note that documents D2 (page 19, line 25-page 20, line 30, page 22, lines 10-12, figures 2, 3) and D3 (paragraph 62, figure 9) also disclose all technical features of claim 1, which therefore is not new in the sense of Article 33(2) PCT over these documents, either.

**DEPENDENT CLAIMS 2-24**

Dependent claims 2-24 do not seem to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), see D1-D3.

**Re Item VII.**

Note that the apparatus of claim 1 comprises "means for supplying physiologically active agents from cells or tissue", but does not necessarily comprise the agents themselves, as does the dependent claim 5. Therefore, the dependent claim 6 cannot depend on claim 1 but only on claim 5. For the same reason, claims 12 and 14 cannot depend on claim 1.